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OGC HAS REVIEWED.

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76-739

OGC 76-1949
27 July 1976

MEMORANDUM FOR: Inspector General

FROM : Anthony A. Lapham
General Counsel

STATOTHR

SUBJECT : Procedures for Rendering Advice Pursuant to [REDACTED]

REFERENCE : Paragraph c, page 3, Tab B of Memo to Chairman
Intelligence Oversight Board from DCI dated
24 April 1976

STATOTHR 1. In referent, the Director assured the Chairman of the Intelligence
Oversight Board that this Office will review each and every proposed STATOTHR
request for Agency assistance to other Government components [REDACTED]

[REDACTED] Recently we became aware of such a case
(involving a Social Security Administration request for ADP assistance)
wherein there seems to be no evidence of formal coordination with this
Office (there is indication that some verbal coordination may have been
undertaken).

2. Fortunately, we agree with the substantive judgment that was
made in that case, and we certainly appreciate the reasons why formal
coordination was not undertaken there. Notwithstanding, especially
because of the assurances mentioned above, we are of the view that it
may, in the future, be important to be able to conclusively demonstrate
formal coordination in accordance with the regulation.

3. In order to accomplish this we suggest the following: In those
cases, such as the instant case, in which (a) you believe the Agency has
authority to perform the requested assistance and (b) you believe are
uncontroversial, you could simply add a concurrence line for this Office
to your formal opinion and route such opinion through this Office on its
way to the Directorate concerned. Such a procedure will allow, in our

view, full compliance with the regulation and will keep this Office informed -- I presume one of the underlying intents of the drafters of the regulation -- as to that assistance the Agency is providing, yet will not create undue administrative burden or delay.

[REDACTED]

Anthony A. Lapham

cc: DDCI
Asst to DDCI
DDO
OLC

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OFFICE OF THE GENERAL COUNSEL

ORGANIZATION

The Office of the General Counsel consists of the General Counsel, the Deputy General Counsel, an Executive Officer, several Special Assistants and four substantive legal divisions: Freedom of Information and Privacy Law, General Law, Logistics and Procurement Law, and Operations and Management Law.

a. The General Counsel reports to the Director and is a member of the CIA Management Committee.

b. The Freedom of Information and Privacy Law Division is responsible for appeals, litigation and legal questions relating to the Freedom of Information and Privacy Acts.

c. The General Law Division is responsible for legislation, regulations, classification, publications, copyright, conflicts of interest, international law and treaties and for providing legal advice on Agency wide management and policy matters and Intelligence Community matters.

d. The Logistics and Procurement Law Division provides legal advice to the Director of Logistics. It has responsibility for the legal aspects of all Agency procurement contracts as well as for real estate, customs, patent and environmental matters.

e. The Operations and Management Law Division is responsible for legal matters relating to clandestine operations, including administrative plans, cover, proprietaries, taxation, and defectors; this division also handles personnel and finance questions, claims, cleared attorneys, personal legal assistance and jury duty and witness questions.

AUTHORITIES AND RESPONSIBILITIES

CIA Headquarters Regulation [REDACTED] outlines the principal authorities and responsibilities of the Office of General Counsel. Copies of this regulation and related Headquarters notices are attached.

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The General Counsel is responsible for all legal matters arising out of the official business of the Agency. His primary responsibility is to advise the Director of Central Intelligence. In addition, he provides counsel and guidance to officers and employees at all levels on legal issues connected with the conduct of the Agency's mission. Many of the problems handled are unique because of the mission and requirements of the Directorate of Operations. He is responsible for the review of contracts and agreements between the Agency and non-governmental organizations, review of all regulatory issuances prior to publication, coordination of legal issues involved in CIA relationships with non-Agency organizations and liaison with the Office of the Legislative Counsel on congressional matters especially those pertaining to legislation.

Legal advice to the Director as well as to subordinate officials of the Agency is given not only by written memorandum, but also in the course of countless oral discussions on matters of particular concern. Because the General Counsel advises on proposed activities orally and informally at an early stage whenever possible; much of the advice and effect thereof will not be a matter of record. The result of such advice will nevertheless be a regulation, guidelines or activity which conforms with the law.

RESOURCES

The Office's resources have been increased from authorized strength of 21 persons which included 14 attorneys and a budget of approximately \$.6 million in FY 1975 to a projected strength of 59 including 34 attorneys and a budget of approximately \$1.7 million for FY 1977. Of these 34, 30 are now on duty, 3 are being cleared for duty and the last is being recruited. This increase is due primarily to an ever-increasing workload. In particular, it is responsive to STATINTL the recommendations of the Rockefeller Commission Report and the Analysis of Structure, Function and Manpower (of CIA/OGC), September 1975 prepared by the Management Programs and Budget Staff, Office of Management and Finance, Department of Justice, and to the direction of former [REDACTED]

DISCOVERY AND REPORTING PROCEDURES

The studies and direction mentioned above have resulted in several new practices and procedures being established and several existing practices and procedures being modified or changed.

a. An Agency Regulation [REDACTED] has been issued which explicitly prohibits certain activities which this Agency has participated in or has been associated with in the past. The Office of General Counsel made a major contribution to the

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regulation allows certain activities only after legal review by this Office and the DCI's approval.

b. This same regulation [REDACTED] was issued to ensure that Agency activities are in compliance with law. The Deputy Directors and Heads of Independent Offices of the Agency must consult with the Office of General Counsel on the legality of all activities unless the legality of a proposed activity has been previously clearly established.

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c. An Agency regulation [REDACTED] was issued to establish approval procedures prior to Agency components assisting other Federal, state and local Governments. Such procedures require a review of the proposed assistance by the Office of General Counsel.

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d. Former [REDACTED] directed that the General Counsel continue to broaden the role of his Office by reviewing ongoing projects and activities. In this regard, he directed that the General Counsel review program budgets and participate in the monthly Comptroller meeting with the Deputy Directors.

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e. Former [REDACTED] directed that the Office of General Counsel review all Agency regulatory issuances (including those of the Directorates and components therein) to ensure that they conform to existing legislation and authorities. Related thereto, he endorsed a complete review of the Agency regulatory process, to which the Office of General Counsel will make a major contribution.

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f. The recruitment practices for new attorneys to the Office of General Counsel has been changed to effect a balance between those recruited from outside the Agency and those with experience in other components of the Agency.

g. In order to operate more efficiently, the Office of General Counsel has been divided into four substantive divisions. More importantly, however, this reorganization will permit a greater degree of specialization which should facilitate raising the degree of legal scrutiny that this Office can direct toward a specific activity.

h. One of the senior attorneys in the Office of General Counsel has been assigned to work directly with the Operations Directorate. Two other senior attorneys are assigned to work directly with the Office of Logistics. All of these attorneys are physically located with those components to which they are assigned. The Office has begun a study to determine whether such assignments to other Agency Directorates and Offices are desirable.

1. One of the substantive divisions of the Office concentrates almost its entire attention on the programs and activities of the Operations Directorate and related matters.

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j. Former [redacted] directed that legal opinions and legal representation of the Agency be undertaken only by attorneys assigned to the Office of General Counsel or who are directly responsible to the General Counsel.

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k. Regulatory issuances [redacted] have been disseminated and will continue to be disseminated to all employees on a regular periodic basis directing them to report any activity which appears inconsistent with the Agency's Legislative charter.

b. OFFICE OF GENERAL COUNSEL

(1) Mission. The General Counsel is responsible for all legal matters arising in connection with the official business of the Agency. The General Counsel shall have access to any information in CIA necessary to perform his assigned duties. In compliance with Executive Order 11905 dated 18 February 1976, the General Counsel will (provisions of the Executive Order are quoted in italics):

- (a) *Transmit to the Intelligence Oversight Board reports of any activities that come to his attention that raise questions of legality or propriety.*
- (b) *Report periodically, at least quarterly, to the Intelligence Oversight Board on his findings concerning questionable activities, if any.*
- (c) *Provide to the Intelligence Oversight Board all information requested about activities within the CIA.*
- (d) *Report to the Intelligence Oversight Board any occasion on which he was directed not to report any activity to the Oversight Board by the DCI.*
- (e) *Formulate practices and procedures designed to discover and report to the Intelligence Oversight Board activities that raise questions of legality or propriety.*

(2) Functions. The General Counsel will:

- (a) Act as adviser to the Director on legal matters.
- (b) Advise and assist all officials and employees on legal matters arising in connection with the official business of the Agency including review of all contracts of interest to the Agency.
- (c) Review all regulatory material of the Agency for legality prior to publication.
- (d) Be responsible for and control all general liaison outside the Agency relating to legal matters.
- (e) Maintain a panel of private attorneys who are cleared for use in connection with all Agency activities and be responsible for selections and use of private attorneys in respect to Agency matters for whatever purpose.

This Notice Expires 1 February 1977

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4 February 1976

OFFICE OF GENERAL COUNSEL

1. The Office of General Counsel has been reorganized to provide better service to the various components within the Agency. A general, but not inclusive description of the functions of each division follows:

a. The Freedom of Information and Privacy Law Division is responsible for appeals, litigation and legal questions relating to the Freedom of Information and Privacy Acts.

b. The General Law Division is responsible for legislation, regulations, classification, publications, copyright, conflicts of interest, international law and treaties and for providing legal advice on Agency-wide management and policy matters and Intelligence Community matters.

c. The Logistics and Procurement Law Division provides legal advice to the Director of Logistics. It has responsibility for the legal aspects of all Agency procurement contracts as well as for real estate, customs, patent and environmental matters.

d. The Operations and Management Law Division is responsible for legal matters relating to clandestine operations, including administrative plans, cover, proprietaries, taxation, and defectors; this division also handles personnel and finance questions, claims, cleared attorneys, personal legal assistance and jury duty and witness questions.

2. Correspondence should continue to be addressed to the Office of General Counsel, 7-D-07 Headquarters Building, but may be directed to the attention of a particular individual or component as listed below:

General Counsel
Mr. John S. Warner
Room 7-D-01 Headquarters Building Ext. 6111

STATINTL Deputy General Counsel

Room 7-D-01 Headquarters Building Ext. 6378

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